

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 406

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO FEMALE GENITAL MUTILATION OF A CHILD; AMENDING SECTION 18-1506B,
2 IDAHO CODE, TO PROVIDE THAT CERTAIN ACTS SHALL BE A FELONY; AND AMENDING
3 SECTION 19-5307, IDAHO CODE, TO PROVIDE THAT A FINE MAY BE IMPOSED FOR
4 FEMALE GENITAL MUTILATION OF A CHILD.
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 18-1506B, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 18-1506B. FEMALE GENITAL MUTILATION OF A CHILD -- EXCLUSIONS -- PENAL-
10 TIES -- DEFINITION. (1) Except as provided in subsection (24) of this sec-
11 tion, whoever knowingly circumcises, excises, or infibulates the whole or
12 any part of the labia majora, labia minora, or clitoris of a child shall be
13 guilty of a felony.

14 (2) Except as provided in subsection (4) of this section, whoever know-
15 ingly gives permission for, or permits on a child, any act prohibited by sub-
16 section (1) of this section shall be guilty of a felony.

17 (3) Except as provided in subsection (4) of this section, whoever know-
18 ingly removes or causes, permits, or facilitates the removal of a child from
19 this state for the purpose of facilitating any act prohibited by subsection
20 (1) of this section shall be guilty of a felony.

21 (4) A surgical operation shall not be a violation of this section if the
22 operation is:

23 (a) Necessary to the health of the person on whom it is performed and
24 is performed by a person licensed in the place of its performance as a
25 medical practitioner; or

26 (b) Performed on a person in labor or who has just given birth and is
27 performed for medical purposes connected with that labor or birth by a
28 person licensed in the place it is performed as a medical practitioner,
29 midwife, or person in training to become such a practitioner or midwife.

30 (35) In applying subsection (24) (a) of this section, no account shall
31 be taken of the effect on the person on whom the operation is to be performed
32 or any belief on the part of that person, or any other person, that the opera-
33 tion is required as a matter of custom or ritual.

34 (46) Any person convicted of a violation of this section shall be guilty
35 of a felony and shall be imprisoned in the state prison for a term of not more
36 than life.

37 (57) For the purposes of this section, "child" means any person under
38 eighteen (18) years of age.

39 SECTION 2. That Section 19-5307, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 19-5307. FINES IN CASES OF CRIMES OF VIOLENCE. (1) Irrespective of any
2 penalties set forth under state law, and in addition thereto, the court, at
3 the time of sentencing or such later date as deemed necessary by the court,
4 may impose a fine not to exceed five thousand dollars (\$5,000) against any
5 defendant found guilty of any felony listed in subsections (2) and (3) of
6 this section.

7 The fine shall operate as a civil judgment against the defendant and
8 shall be entered on behalf of the victim named in the indictment or infor-
9 mation, or the family of the victim in cases of homicide or crimes against
10 children, and shall not be subject to any distribution otherwise required
11 in section 19-4705, Idaho Code. The clerk of the district court may collect
12 the fine in the same manner as other fines imposed in criminal cases are
13 collected and shall remit any money collected in payment of the fine to the
14 victim named in the indictment or information or to the family of the victim
15 in a case of homicide or crimes against minor children, provided that none
16 of the provisions of this section shall be construed as modifying the provi-
17 sions of chapter 6, title 11, Idaho Code, chapter 10, title 55, Idaho Code, or
18 section 72-802, Idaho Code. A fine created under this section shall be a sep-
19 arate written order in addition to any other sentence the court may impose.

20 The fine contemplated in this section shall be ordered solely as a puni-
21 tive measure against the defendant and shall not be based upon any require-
22 ment of showing of need by the victim. The fine shall not be used as a substi-
23 tute for an order of restitution as contemplated in section 19-5304, Idaho
24 Code, nor shall such an order of restitution or order of compensation en-
25 tered in accordance with section 72-1018, Idaho Code, be offset by the entry
26 of such fine.

27 A defendant may appeal a fine created under this section in the same man-
28 ner as any other aspect of a sentence imposed by the court. The imposition of
29 a fine created under this section shall not preclude the victim from seeking
30 any other legal remedy; provided that in any civil action brought by or on be-
31 half of the victim, the defendant shall be entitled to offset the amount of
32 any fine imposed pursuant to this section against any award of punitive dam-
33 ages.

34 (2) The felonies for which a fine created under this section may be im-
35 posed are those described in:

36 Section 18-805, Idaho Code (Aggravated arson);

37 Section 18-905, Idaho Code (Aggravated assault);

38 Section 18-907, Idaho Code (Aggravated battery);

39 Section 18-909, Idaho Code (Assault with intent to commit a serious
40 felony);

41 Section 18-911, Idaho Code (Battery with intent to commit a serious
42 felony);

43 Section 18-913, Idaho Code (Felonious administration of drugs);

44 Section 18-918, Idaho Code (Felony domestic violence);

45 Section 18-923, Idaho Code (Attempted strangulation);

46 Section 18-1501, Idaho Code (Felony injury to children);

47 Section 18-1506, Idaho Code (Sexual abuse of a child under the age of
48 sixteen);

49 Section 18-1506A, Idaho Code (Ritualized abuse of a child);

50 Section 18-1506B, Idaho Code (Female genital mutilation of a child);

1 Section 18-1507, Idaho Code (Sexual exploitation of a child);
2 Section 18-1508, Idaho Code (Lewd conduct with a child under the age of
3 sixteen);
4 Section 18-1508A, Idaho Code (Sexual battery of a minor child sixteen or
5 seventeen years of age);
6 Section 18-4001, Idaho Code (Murder);
7 Section 18-4006, Idaho Code (Felony manslaughter);
8 Section 18-4014, Idaho Code (Administering poison with intent to kill);
9 Section 18-4015, Idaho Code (Assault with intent to murder);
10 Section 18-4502, Idaho Code (First degree kidnapping);
11 Section 18-5001, Idaho Code (Mayhem);
12 Section 18-5501, Idaho Code (Poisoning food, medicine or wells);
13 Section 18-6101, Idaho Code (Rape);
14 Section 18-6501, Idaho Code (Robbery).
15 (3) Notwithstanding the provisions of section 18-306(4) and (5), Idaho
16 Code, the fine created under this section may also be imposed up to five thou-
17 sand dollars (\$5,000) for attempts of the felonies described in:
18 Section 18-4001, Idaho Code (Murder);
19 Section 18-6101, Idaho Code (Rape).